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EXAMINER

MACKEY, JAMES P

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 03/12/2002

39

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**08/809,340**

Applicant(s)

**PADOVANI**

Examiner  
**James Mackey**

Art Unit  
**1722**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Jan 22, 2002

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 5-21, 23, 25-30, 43, and 45 is/are pending in the application.

4a) Of the above, claim(s) 8, 11-13, 15-21, 23, and 25-30 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 5-7, 9, 10, 14, 43, and 45 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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1. Applicant's election of Species B (corresponding to Figures 19-22) in Paper No. 38 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant contends that claims 5-14, 43 and 45 belong with the elected species, claim 43 being generic; Applicant further contends that claims 15-21 and 23 should be examined if generic claim 43 is allowable. Finally, Applicant states that claims 25-30 are non-elected.

However, the Examiner notes that claims 8, 11, 12 and 13 **do not belong** with the elected species, since the collar described in relation to Figures 19-22 (corresponding to the elected Species) does not have an equatorial shoulder, is not of resiliently deformable material, does not include resiliently loaded ratchets, and does not include suction orifices, as recited in claims 8, 11, 12 and 13 respectively.

Therefore, claims 5-7, 9, 10, 14, 43 and 45 belong with the elected species, claim 43 being generic to at least some of the claims.

2. Claims 8, 11-13, 15-21, 23 and 25-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 38.

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

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The oath or declaration is defective because:

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

Note that the declaration filed on Sept. 15, 2000, does not claim priority to PCT

International Application No. PCT/EP95/03451 filed on 01 September 1995 (which should be listed in section (c) of the declaration, as in the originally filed declaration), and therefore the declaration does not properly claim priority to the Italian Patent Application VR94A000082 filed on 14 September 1994.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7, 9 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK Patent Application GB 2,263,660 taken together with German Patent 3,928,301.

GB '660 teaches the thermoforming apparatus substantially as claimed, including extraction pick-up means PA, 26, 27 for extracting thermoformed articles from the female die and transferring the articles to conveying templates on a conveyor (see especially Figures 14-23 and 32). GB '660 further teaches that the extraction plate and the conveying template have receiving seats for the thermoformed articles, but does not teach that the receiving seat of the template is a

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receiving hole having an interior dimension which is smallest in a region remote from the exterior surface of the template. German '301 teaches a thermoforming apparatus including an extraction head having receiving holes defined by two annular surfaces defining an annular shoulder therebetween (the receiving hole having an interior dimension which is smallest in a region remote from said exterior surface, as claimed in claim 43). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the receiving seats of both the extraction head and the conveying template as the receiving seat having an annular shoulder as disclosed in German '301, in order to more securely attach the thermoformed articles to the extraction head and the conveying template. It would have been further obvious to a skilled artisan to have provided the conveyors of GB '660 as conventional chain conveyors (note Fig. 22).

6. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '660 taken together with German '301, as applied to claims 5-7, 9 and 43 above, and further in view of Padovani (U.S. Patent 5,118,277).

GB '660 does not teach that the receiving hole of the conveying template includes a conical collar adjacent the receiving hole. Padovani '277 discloses an article transfer member 40 having receiving holes for receiving articles, with a conical collar 46, 47 adjacent the receiving hole for firmly engaging with the article. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the template with a conical

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collar adjacent the receiving hole, as disclosed in Padovani '277, in order to firmly hold the article in the receiving hole.


7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB '660 taken together with German '301, as applied to claims 5-7, 9 and 43 above, and further in view of Beyer-Olsen et al. (U.S. Patent 3,966,386).

GB '660 does not teach a carousel conveyor having a plurality of arms. Beyer-Olsen et al. teach an apparatus for removing molded articles from a molding device comprising a carousel conveyor having a plurality of arms, each arm being provided with a means for gripping the molded article and moving said article to another location. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the conveyor as a carousel conveyor, as disclosed in Beyer-Olsen et al., in order to facilitate the conveying of the molded articles.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is (703) 308-1195. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Nam Nguyen, can be reached at (703) 308-3322. The fax phone number for this Group is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651. Any inquiry relating to the contents or papers filed in this application, other than issues of substance requiring the attention of the Examiner, should be directed to the Customer Service Office, Technology Center 1700, whose telephone number is (703) 306-5665.

MACKEY/jpm  
March 11, 2002

  
**JAMES MACKEY**  
**PRIMARY EXAMINER**  
**ART UNIT 1722**

3/11/02